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**MAY 19 2004**

**OFFICE OF PETITIONS**

In re Application of :  
Qiu et al. :  
Application No. 10/613,622 : DECISION ON PETITION  
Filed: April 5, 2004 :  
Attorney Docket No. 7089.US.01 :

This is a decision on the petition filed April 5, 2004, requesting that the above-identified application be accorded a filing date of April 5, 2004, the date of receipt of omitted drawing. It does not appear from the petition that applicant is requesting an earlier filing date.

The above-identified application was deposited on July 2, 2003. However, on October 1, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, stating that the application was deposited without drawings and that the filing date would be the date of receipt of the drawings. Additionally, the Notice indicated that the oath/declaration was unsigned.

In response, on April 5, 2004, applicant filed the present petition, one sheet of drawings containing Figure 1, an authorization to charge the Deposit Account for the petition fee, and an executed declaration. Applicant has not submitted any arguments that the drawing sheet was filed with the application on July 2, 2003.

The Office file is the official record of the papers originally filed in this application. A review of the official file reveals no drawings are present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers that are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date-stamped thereon by the Office. See MPEP 503.

No date-stamped postcard receipt has been submitted in this case. If applicant has a postcard receipt showing that one sheet of drawings was filed on July 2, 2003, the postcard receipt or a copy thereof should be supplied.

At the present time, the petition is **granted** to the extent that the application will be accorded a filing date of April 5, 2004, with Figure 1 submitted on that date. No petition fee is necessary. The \$130.00 petition fee and the \$1,480.00 extension of time fees are unnecessary and will be refunded to Deposit Account No. 01-0025.

The Office of Initial Patent Examination is directed to process the present application with a filing date of April 5, 2004, using Figure 1 filed on that date..

Any inquiries should be directed to the undersigned at (703) 306-5589.

*Christina Tartera Donnell*

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